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*Attorneys for Plaintiffs  
and the Proposed Class*

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

ANTHONY SESSA and MARK SESSA, *on  
behalf of themselves and all others similarly  
situated,*

Plaintiffs,

v.

ANCESTRY.COM OPERATIONS INC., a  
Virginia Corporation; ANCESTRY.COM INC.,  
a Delaware Corporation; and  
ANCESTRY.COM LLC, a Delaware Limited  
Liability Company.

Defendants.

Case No.: 2:20-cv-02292

**CLASS ACTION COMPLAINT FOR  
VIOLATION OF NEV. REV. STAT. §§  
597.770 *et seq.* AND 598.0903 *et seq.*;  
INTRUSION UPON SECLUSION;  
UNJUST ENRICHMENT**

**CLASS ACTION**

**JURY TRIAL DEMANDED**

1. Plaintiffs ANTHONY SESSA and MARK SESSA, by and through their attorneys, make the following allegations on information and belief, except as to factual allegations pertaining to Plaintiffs, which are based on personal knowledge.

# INTRODUCTION

2. Plaintiffs bring this class action complaint against ANCESTRY.COM OPERATIONS INC.; ANCESTRY.COM INC; and ANCESTRY.COM LLC (collectively, “Ancestry”) for knowingly misappropriating the photographs, likenesses, names, and identities of Plaintiffs and the class; knowingly using those photographs, likenesses, names, and identities for the commercial purpose of selling access to them in Ancestry products and services; and knowingly using those photographs, likenesses, names, and identities to advertise, sell, and solicit purchases of Ancestry services and products; without obtaining prior consent from Plaintiffs and the class.

3. Ancestry's business model relies on amassing huge databases of personal information, including names, photographs, addresses, places of birth, estimated ages, schools attended, and other biographical information, then selling access to that information for subscription fees. Ancestry's databases comprise billions of records belonging to hundreds of millions of Americans. The main subject of this lawsuit is Ancestry's "U.S., School Yearbooks, 1900-1999" database ("Ancestry Yearbook Database"). To construct its Yearbook Database, Ancestry extracted personal information from school yearbooks, then aggregated the extracted information into digital records that correspond to and identify specific individuals. The Ancestry Yearbook Database includes the names, photographs, cities of residence, and schools attended of many millions of Americans. According to the Ancestry website, the Ancestry Yearbook Database includes over 1.7 million individual records from Nevada schools and universities.

4. Ancestry has not received consent from, given notice to, or provided compensation to the millions of Nevadans whose names, photographs, biographical information, and identities appear in its Ancestry Yearbook Database.

5. The names, photographs, cities of residence, schools attended, estimated ages,

1 likenesses, and identities contained in the Ancestry Yearbook Database uniquely identify specific  
2 individuals.

3         6. Ancestry knowingly uses the names, photographs, cities of residence, schools  
4 attended, estimated ages, likenesses, and identities in its Ancestry Yearbook Database on and in  
5 its products and services. Ancestry sells access to those records to paying subscribers. In  
6 exchange for subscription payments ranging from \$24.99 to \$49.99 per month, depending on the  
7 plan, Ancestry subscribers receive the ability to search, view, and download records in Ancestry  
8 databases, including the names, photographs, cities of residence, schools attended, estimated ages,  
9 likenesses, and identities Ancestry has amassed in its Ancestry Yearbook Database without  
10 consent.

11         7. Ancestry knowingly uses the names, photographs, cities of residence, schools  
12 attended, estimated ages, likenesses, and identities in its Ancestry Yearbook Database to  
13 advertise, sell, and solicit the purchase of its monthly subscription products and services,  
14 including its “U.S. Discovery,” “World Explorer,” and “All Access” subscription plans.

15         8. Ancestry advertises and promotes its products and services to new subscribers by  
16 offering a 14-day promotional “free trial” that provides temporary access to search, view, and  
17 download records from Ancestry’s databases. Users who sign up for the promotional “free trial”  
18 provide payment information but are not billed until the promotional “free trial” expires and may  
19 cancel before the trial expires without charge. During the promotional “free trial,” users are  
20 encouraged to search Ancestry Databases, including its Yearbook Database, for the names of any  
21 people they may know or be curious about. In response to searches of the Ancestry Yearbook  
22 Database, users receive a list records, each of which corresponds to a specific identifiable person,  
23 and includes the individual’s name, yearbook photo, estimated age, city of residence, school  
24 attended, and year of attendance. “Free trial” users may view and download full-resolution  
25 versions of yearbook photos of the individuals they have searched.

26         9. The sole purpose of offering the promotional “free trial” is to induce users to  
27 subscribe to its paid product and service. By providing access to and encouraging use of its  
28

1 Ancestry Yearbook Database as part of its promotional “free trial”, Ancestry is knowingly using  
2 the names, photographs, and likenesses of Plaintiffs and the class to advertise, sell, and solicit  
3 the purchase of its subscription products and services.

4 10. Ancestry also advertises its monthly subscription products and services by  
5 providing a promotional limited-access version of its website. Any visitor to the Ancestry website  
6 may access the promotional limited-access version, even if they have not provided contact  
7 information or signed up for the promotional “free trial.” Users on the promotional limited-access  
8 version are encouraged to search Ancestry Databases, including its Yearbook Database, for the  
9 names of any people they may know or be curious about. In response to searches of the Ancestry  
10 Yearbook Database, users receive a list records, each of which corresponds to a specific  
11 identifiable person, and includes the individual’s name, city of residence, and a low-resolution  
12 version of a yearbook photo. Users of the promotional limited-access version of the website may  
13 view the low-resolution photo, allowing them to confirm the record corresponds to the person  
14 they are searching for. Users cannot view the full-resolution version of the photograph or view  
15 additional information about the person such as estimated age, name of school, and yearbook  
16 year. If users click to view this information, they are encouraged to “sign up now” for a paid  
17 subscription.  
18

19 11. The sole purpose of offering the promotional limited-access version of the website  
20 is to induce users to subscribe to its paid product and service. By providing access to and  
21 encouraging use of its Ancestry Yearbook Database as part of its promotional limited-access  
22 website for non-subscribers, Ancestry is knowingly using the names, photographs, and likenesses  
23 of Plaintiffs and the class to advertise, sell, and solicit the purchase of its subscription products  
24 and services.

25 12. Ancestry also advertises using targeted promotional email messages that include  
26 names, photographs, images, likenesses, and other personal information it has amassed in its  
27 databases. These targeted promotional email messages are intended to entice potential customers  
28 to purchase a paid subscription, and to entice existing customers to upgrade to more expensive

1 plans. For example, in one of its more ghoulish advertising techniques, Ancestry sends to  
2 potential subscribers' photographs of the gravesites of their deceased relatives, promising that a  
3 paid subscription will reveal even more information about the deceased. On information and  
4 belief, Ancestry also sends to potential subscribers' messages containing names, photographs,  
5 images, biographical information, and likenesses from its Yearbook Database, including the  
6 names, photographs, images, biographical information, and likenesses of Plaintiffs and the class.

7 13. Ancestry appropriated and continues to grow its massive databases of personal  
8 information, including its Ancestry Yearbook Database, which contains the names, photographs,  
9 cities of residence, schools attended, estimated ages, likenesses, and identities of millions of  
10 Nevadans. Ancestry uses these records both as the core element of its products and services, and  
11 to sell and advertise its products and services, without providing any notice to the human beings  
12 who are its subjects. Ancestry did not ask the consent of the people whose personal information  
13 and photographs it profits from. Nor has it offered them any compensation for the ongoing use  
14 of their names, photographs, likenesses, and identities as part of its products and services, and to  
15 sell and advertise its products and services.

16 14. Through its actions, Ancestry has harmed and continues to harm Plaintiffs and the  
17 class by denying them the economic value of their likenesses, violating their legally protected  
18 rights to the exclusive use of their likenesses, and violating their right to seclusion. Ancestry has  
19 also earned ill-gotten profits and been unjustly enriched.

20 15. These practices, as further detailed in this complaint, violate the Nevada right to  
21 publicity as codified in Nev. Rev. Stat. 597.770 *et seq.*; Nevada law prohibiting deceptive trade  
22 practices as codified in 598.090. *et seq.*; Nevada common law protecting against Intrusion upon  
23 Seclusion; and Nevada Unjust Enrichment law.

#### 24 **JURISDICTION AND VENUE**

25 16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d) (the  
26 Class Action Fairness Act ("CAFA")), because: (A) all members of the putative class are citizens  
27 of a state different from any defendant. According to available public records, Defendants are all  
28

1 incorporated in either Delaware or Virginia, and are headquartered in Utah. The class members  
2 are residents of Nevada. (B) The proposed class consists of at least 100 members. Ancestry  
3 advertises that its Ancestry Yearbook Database comprises about 730 million individual records  
4 collected from “more than 450,000 yearbooks and more than 62 million pages.” A search of the  
5 database for records located in “Nevada, USA” returns more than 1.7 million individual records.  
6 Even accounting for the fact that some individuals may appear in multiple records, that some are  
7 deceased or no longer live in Nevada while others have moved into the state, and that the class  
8 excludes current Ancestry subscribers, the class likely comprises millions of Nevadans. And (C)  
9 the amount in controversy exceeds \$5,000,000 exclusive of interest and costs. Nev. Rev. Stat.  
10 597.770 *et seq.* provides for damages equal to the greater of \$750 per violation or the actual  
11 damages suffered by Plaintiffs, plus exemplary and/or punitive damages in the case of knowing  
12 use without consent. Given more than 1.7 million individual records in Nevada, the amount in  
13 controversy is well over the jurisdictional amount.

14  
15 17. This Court has personal jurisdiction over the claims of Plaintiffs and the non-  
16 named class members. Ancestry maintains substantial connections to the state of Nevada and this  
17 district by, among other things, advertising its subscription products and services to prospective  
18 customers in this state and district, providing its subscription products and services to existing  
19 customers in this state and district, and using the misappropriated names, photographs, likenesses,  
20 images, and identities of residents of this state and district as described in this complaint.

21 18. Venue is appropriate pursuant to 28 U.S.C. § 1391(b). A substantial portion of the  
22 events and conduct giving rise to the violations alleged in this complaint occurred in this district.  
23 A substantial portion of the class members reside in this state and district. Named Plaintiffs  
24 Anthony Sessa and Mark Sessa reside in this district.

#### 25 INTRADISTRICT VENUE

26 19. Venue in this Division of the District is proper because a substantial part of the  
27 events or omissions which give rise to the claim occurred in Clark County. Plaintiffs Anthony  
28 Sessa and Mark Sessa live in Las Vegas.

**PARTIES****Defendant Ancestry**

20. Defendant ANCESTRY.COM OPERATIONS INC. is a Virginia corporation with its headquarters in Lehi, Utah. It conducts business under the brand names “Ancestry.com,” “Ancestry,” and other brand names associated with the various website and services it owns and operates. Ancestry conducts business throughout this District, Nevada, and the United States. Ancestry owns and operates the website Ancestry.com.

21. Defendant ANCESTRY.COM INC. is a Delaware corporation with its headquarters in Lehi, Utah. Defendant ANCESTRY.COM LLC is a Delaware limited liability company with its headquarters in Lehi, Utah.

**Plaintiff Anthony Sessa**

22. Plaintiff Anthony Sessa is a resident of Las Vegas. Anthony Sessa is not a subscriber of any Ancestry.com products or services and is not subject to any Terms of Service or any other agreement with Ancestry.com.

23. Anthony Sessa has never provided consent to Ancestry, written or otherwise, for the use of his name, photograph, or likeness.

24. Ancestry has never notified, requested consent, or provided compensation to Anthony Sessa for its appropriation of his name, photograph, and likeness. Anthony Sessa first became aware that his personal information and photographs are being used by Ancestry through the investigation of this lawsuit.

25. Ancestry has and continues to knowingly use Anthony Sessa’s name, photograph, and likeness for a commercial purpose by selling access to his name, photograph, and likeness its products, including its “U.S. Discovery,” “World Explorer,” and “All Access” paid subscription plans. Subscribers who pay monthly subscriptions fees of between \$24.99 and \$49.99 per month, depending on the plan, receive in exchange the ability to search for, view, and download records in Ancestry’s Yearbook Database. This database includes three separate records corresponding to Anthony Sessa: one from a 1975 yearbook from Western High School in Las Vegas, Nevada, where Anthony Sessa attended school; one from a 1976 yearbook from

1 the same school; and one from 1977 yearbook from the same school. Paying subscribers may  
2 search for Anthony Sessa and view and download the three records containing his name,  
3 photograph, and likeness.

4 26. Ancestry has and continues to knowingly use Anthony Sessa's name, photograph,  
5 and likeness for the commercial purpose of advertising, selling, and soliciting the purchase of its  
6 subscription services and products, including its "U.S. Discovery," "World Explorer," and "All  
7 Access" paid subscription plans, by using Anthony Sessa's name, photograph, and likeness in its  
8 14-day promotional "free trial". Users of the promotional "free trial" may search for, download,  
9 and view records in Ancestry's Yearbook Database. "Free trial" users receive access to the same  
10 three records corresponding to Anthony Sessa that are available to paying users. Ancestry's sole  
11 purpose in using Anthony Sessa's name, photograph, and likeness in the promotional "free trial"  
12 version of its website is to advertise, sell, and solicit the purchase of paid subscription plans.

13 27. A screenshot showing the results of a search for Anthony Sessa's name on  
14 Ancestry.com is shown below, followed by three screenshots showing the more detailed version  
15 of each record that is delivered if the user clicks the "View Record" link corresponding to each  
16 record in the list. These pages are accessible both to paying subscribers and to users of Ancestry's  
17 promotional 14-day "free trial." To protect their privacy, throughout this complaint Plaintiff's  
18 counsel have used photo-editing software to obscure Anthony Sessa's face and the names and  
19 images of other students. In the original records Ancestry created and is currently using, Anthony  
20 Sessa's face is plainly visible and identifiable.  
21

22  
23  
24  
25  
26  
27  
28 //



Tony Sessa - U.S. School Yearbooks

ancestry.com/search/collections/1265/?name=tony\_sessa&count=50&name\_x=1\_1&residence=\_nevada-usa\_31&residence\_x=\_1-0

## All U.S., School Yearbooks, 1900-1999 results for Tony Sessa

**Filters**

Broad  Exact

tony

sesta

Lived In: nev...

[Edit Search](#) | [New Search](#)

[Update](#)

Results 1-3 of 3

View Record	Name	Yearbook Date	School	School Location	View Image
<a href="#">View Record</a>	Tony Sessa	1975	Western High School	Las Vegas, Nevada, USA	
<a href="#">View Record</a>	Tony Sessa	1977	Western High School	Las Vegas, Nevada, USA	
<a href="#">View Record</a>	Tony Sessa	1976	Western High School	Las Vegas, Nevada, USA	

[All Categories](#)  
[Schools, Directories & Church Histories](#)  
[School Lists & Yearbooks](#)

U.S., School Yearbooks, 1900-1999


ancestry.com/discoveryui-content/view/614103294:12657\_phsrc=TPO508&\_phstart=successSource&usePUBJs=true&indiv=1&gsfn=tony&gsln=sesta&gsfn\_x=1&gsln\_x=1&msrp...

ancestry Trees Search DNA Health Help Extras Upgrade

[Back](#) [Save](#) [Print](#) [Share](#)

## Tony Sessa

in the U.S., School Yearbooks, 1900-1999



[View](#)

Name:	Tony Sessa
Estimated Age:	16
Birth Year:	abt 1959
Yearbook Date:	1975
School:	Western High School
School Location:	Las Vegas, Nevada, USA

[Save](#)

[Add or update information](#)

[Report a problem](#)


U.S., School Yearbooks, 1900-1999

ancestry Trees Search DNA Health Help Extras Upgrade

Back Save Print Share

## Tony Sessa

in the U.S., School Yearbooks, 1900-1999



View

Add or update information

Report a problem

Name:	Tony Sessa
Estimated Age:	16
Birth Year:	abt 1961
Yearbook Date:	1977
School:	Western High School
School Location:	Las Vegas, Nevada, USA

Save

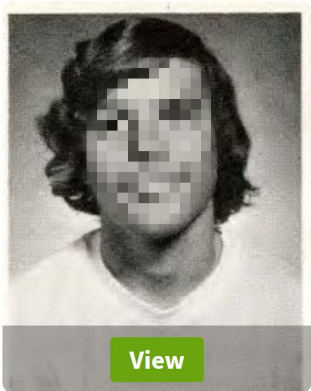
U.S., School Yearbooks, 1900-1999

ancestry Trees Search DNA Health Help Extras Upgrade

Back Save Print Share

## Tony Sessa

in the U.S., School Yearbooks, 1900-1999



View

Add or update information

Report a problem

Name:	Tony Sessa
Estimated Age:	Abt 16
Birth Year:	abt 1960
Yearbook Date:	1976
School:	Western High School
School Location:	Las Vegas, Nevada, USA
Yearbook Title:	Epitaph

Save

1           28.     The three records corresponding to Anthony Sessa uniquely identify Anthony  
2 Sessa. All three plainly and conspicuously display Anthony Sessa's name, image, photograph,  
3 estimated age, school, city of residence, and the date of the yearbook in which the photo appears.  
4 In all three records Anthony Sessa's face is the sole subject of the photograph.

5           29.     Ancestry has and continues to knowingly use Anthony Sessa's name, photograph,  
6 and likeness for the commercial purpose of advertising, selling, and soliciting the purchase of its  
7 subscription services and products, including its "U.S. Discovery," "World Explorer," and "All  
8 Access" paid subscription plans, by using Anthony Sessa's name, photograph, and likeness in  
9 the promotional limited-access version of its website. Any visitor to the Ancestry website may  
10 access the promotional limited-access version, even if they have not provided contact information  
11 or signed up for the promotional "free trial." Users of the promotional limited-access version of  
12 the website may search for records in Ancestry's Yearbook and may view a limited portion of  
13 the information in those records, including the name, city of residence, and a low-resolution  
14 version of the photograph corresponding to each record. Users of the promotional limited-access  
15 version of the Ancestry website receive access to a limited version of same three records  
16 corresponding to Anthony Sessa that are available to paying users.

17           30.     Ancestry's sole purpose in using Anthony Sessa's name, photograph, and likeness  
18 in the promotional limited-access version of its website is to advertise, sell, and solicit the  
19 purchase of paid subscription plans. Users who search for Anthony Sessa's name are shown a  
20 limited version of the records corresponding to Anthony Sessa, which includes Anthony Sessa's  
21 name, city of residence, and a low-resolution version of Anthony Sessa's photograph. Users who  
22 hover over the "View Record" link corresponding to each record receive a promotional pop-up  
23 advertisement from Ancestry displaying Anthony Sessa's name, a low-resolution version of his  
24 photograph, and a message indicating "There's more to see" and promising the user access to  
25 Anthony Sessa's estimated age, birth year, school, yearbook date, school location, and a full-  
26 resolution of Anthony Sessa's photograph if they "Sign Up Now" for a paid subscription.

27           31.     A screenshot showing the results of a search for Anthony Sessa's name on the  
28

promotional limited-access version of the Ancestry website is shown below, followed by three screenshots showing the promotional pop-up advertisement Ancestry delivers to users who hover over the “View Record” link corresponding to each record.

The screenshot displays the Ancestry website search results for 'Tony Sessa'. The page features a navigation bar with 'ancestry' logo and links for 'Trees', 'Search', 'DNA', 'Health', 'Help', and 'Extras'. Below the navigation bar, the search results are titled 'All U.S., School Yearbooks, 1900-1999 results for Tony Sessa'. On the left, there is a 'Filters' section with a slider for 'Broad' to 'Exact' and input fields for 'tony', 'sessa', and 'Lived In: nev...'. A green 'Update' button is at the bottom of the filters. The main results area shows 'Results 1-3 of 3' with a table of search results. Each row includes a 'View Record' link, the name 'Tony Sessa', the yearbook date, the school name, the school location, and a 'View Image' link. The table is as follows:

View Record	Name	Yearbook Date	School	School Location	View Image
<a href="#">View Record</a>	Tony Sessa	year	township	city, Nevada, USA	
<a href="#">View Record</a>	Tony Sessa	year	township	city, Nevada, USA	
<a href="#">View Record</a>	Tony Sessa	year	township	city, Nevada, USA	


Below the table, it shows '1-3 of 3' and a 'Per page' dropdown set to '20'. At the bottom of the filters section, there is a link for 'Edit Search' and a 'New Search' button.

1 NAME: **Tony Sessa**

2

3 **There's more to see**

4 A picture of the original document

5 

6

7 **And things like**

8

9 ESTIMATED AGE BIRTH YEAR

10 YEARBOOK DATE SCHOOL

11 SCHOOL LOCATION

12 **Sign Up Now**


13

14 NAME: **Tony Sessa**

15

16 **There's more to see**

17 A picture of the original document

18 

19

20 **And things like**

21

22 ESTIMATED AGE BIRTH YEAR

23 YEARBOOK DATE SCHOOL

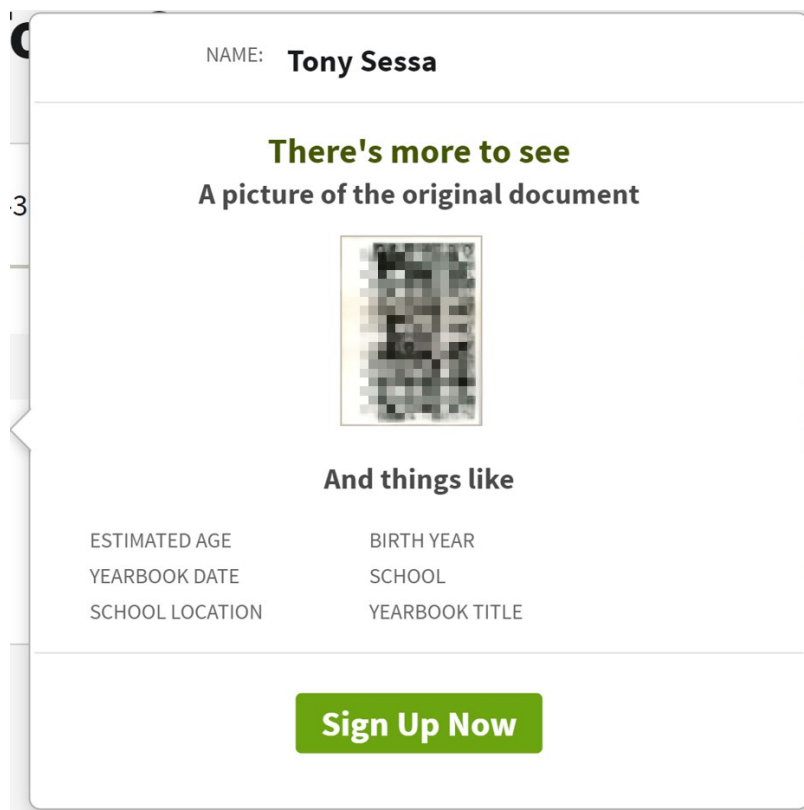
24 SCHOOL LOCATION

25 **Sign Up Now**

26

27

28



32. On information and belief, Ancestry has and continues to knowingly use Anthony Sessa's name, photograph, and likeness for the commercial purpose of advertising, selling, and soliciting the purchase of its subscription services and products, including its "U.S. Discovery," "World Explorer," and "All Access" paid subscription plans, by using Anthony Sessa's name, photograph, and likeness in targeted promotional email messages. Ancestry regularly sends promotional email messages that are intended to entice potential customers to purchase a paid subscription, and to entice existing customers to upgrade to more expensive plans. These email promotions often include the names, photographs, and likenesses of people Ancestry believes may be related to the recipient and encourage the recipient to sign up or upgrade their subscription plan to learn more about the relative. Upon information and belief, Ancestry has and continues to send targeted promotional email messages including Anthony Sessa's name, photograph, and likeness.

33. Through its actions, Ancestry has harmed and continues to harm Anthony Sessa by depriving him the fair economic value of his likeness; violating his exclusive right to control

1 his likeness; and violating his right to freedom from intrusion upon seclusion. Ancestry has  
2 earned ill-gotten profits and been unjustly enriched through its use of Anthony Sessa's name,  
3 photograph, and likeness.

4 **Plaintiff Mark Sessa**

5 34. Plaintiff Mark Sessa is a resident of Las Vegas, Nevada. Mark Sessa is not a  
6 subscriber of any Ancestry.com products or services, and is not subject to a Terms of Service or  
7 any other agreement with Ancestry.com.

8 35. Mark Sessa has never provided consent to Ancestry, written or otherwise, for the  
9 use of his name, photograph, or likeness.

10 36. Ancestry has never notified, requested consent, or provided compensation to  
11 Mark Sessa for its use of his name, photograph, and likeness. Mark Sessa first became aware that  
12 his personal information and photographs are being used by Ancestry through the investigation  
13 of this lawsuit.

14 37. Ancestry has and continues to knowingly use Mark Sessa's name, photograph,  
15 and likeness for a commercial purpose by selling access to his name, photograph, and likeness  
16 its products, including its "U.S. Discovery," "World Explorer," and "All Access" paid  
17 subscription plans. Subscribers who pay monthly subscriptions fees of between \$24.99 and  
18 \$49.99 per month, depending on the plan, receive in exchange the ability to search for, view, and  
19 download records in Ancestry's Yearbook Database. This database includes four separate records  
20 corresponding to Mark Sessa: two from a 1970 yearbook from Western High School in Las Vegas,  
21 Nevada, where Mark Sessa went to school, and two from a 1972 yearbook from the same school.  
22 Paying subscribers may search for Mark Sessa and view and download the four records  
23 containing his name, photograph, and likeness.

24 38. Ancestry has and continues to knowingly use Mark Sessa's name, photograph,  
25 and likeness for the commercial purpose of advertising, selling, and soliciting the purchase of its  
26 subscription services and products, including its "U.S. Discovery," "World Explorer," and "All  
27 Access" paid subscription plans, by using Mark Sessa's name, photograph, and likeness in its  
28

14-day promotional “free trial.” Users of the promotional “free trial” may search for, download, and view records in Ancestry’s Yearbook Database. “Free trial” users receive access to the same four records corresponding to Mark Sessa that are available to paying users. Ancestry’s sole purpose in using Mark Sessa’s name, photograph, and likeness in the promotional “free trial” version of its website is to advertise, sell, and solicit the purchase of paid subscription plans.

39. A screenshot showing the results of a search for Mark Sessa’s name on Ancestry.com is shown below, followed by three screenshots depicting a representative sample of the more detailed versions that are delivered if the user clicks the “View Record” link corresponding to each of the four records in the list. These pages are accessible both to paying subscribers and to users of Ancestry’s promotional 14-day “free trial.” To protect their privacy, throughout this complaint Plaintiffs’ counsel have used photo-editing software to obscure Mark Sessa’s face and the names and images of other students. In the original records Ancestry created and is currently using, Mark Sessa’s face is plainly visible and identifiable.

Mark Sessa - U.S., School Yearbooks

ancestry.com/search/collections/1265/?name=mark\_sessa&name\_x=1\_1&residence=\_nevada-usa\_31&residence\_x=1\_0

## All U.S., School Yearbooks, 1900-1999 results for Mark Sessa

### Filters

Broad ☐ Exact ☐

mark

sessa

Lived In: nevada...

Edit Search | New Search

**Update**

Results 1–4 of 4

View Record	Name	Yearbook Date	School	School Location	View Image
<a href="#">View Record</a>	Mark Sessa	1972	Western High School	Las Vegas, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	1970	Western High School	Las Vegas, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	1972	Western High School	Las Vegas, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	1970	Western High School	Las Vegas, Nevada, USA	

1–4 of 4

Per page 20

▼ All Categories

- > Schools, Directories & Church Histories
- > School Lists & Yearbooks

U.S., School Yearbooks, 1900-1999

This database is a collection of middle school, junior high, high school, and college yearbooks from across the United States.



U.S., School Yearbooks, 1900-1911


ancestry.com/discoveryui-content/view/1276948757:12657\_phsrc=TPO513&\_phstart=successSource&usePUBJs=true&indiv=1&gsfn=mark&gsln=sessa&gsfn\_x=1&gsln\_x=1&msr...

ancestry Trees Search DNA Health Help Extras Upgrade

Back Save Print Share

## Mark Sessa

in the U.S., School Yearbooks, 1900-1999



Blue Freedom Singers  
Fill the Air Singing the  
New Music of Today

View

Name:	Mark Sessa
Estimated Age:	abt 16
Birth Year:	abt 1956
Yearbook Date:	1972
School:	Western High School
School Location:	Las Vegas, Nevada, USA
Photo Description:	Blue Freedom Singers Fill the Air Singing the New Music of Today

Add or update information

Report a problem

Source Citation

U.S., School Yearbooks, 1900-1911

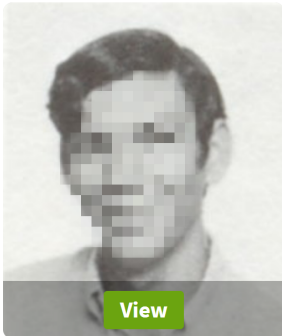
ancestry.com/discoveryui-content/view/612643856:12657\_phsrc=TPO514&\_phstart=successSource&usePUBJs=true&indiv=1&\_phstart=TPO513&gsfn=mark&gsln=sessa&gsfn\_x=...

ancestry Trees Search DNA Health Help Extras Upgrade

Back Save Print Share

## Mark Sessa

in the U.S., School Yearbooks, 1900-1999



View

Name:	Mark Sessa
Estimated Age:	16
Birth Year:	abt 1954
Yearbook Date:	1970
School:	Western High School
School Location:	Las Vegas, Nevada, USA

Add or update information

Report a problem

Source Citation

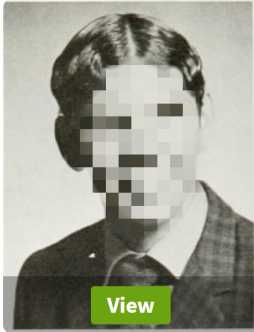
ancestry.com/discoveryui-content/view/612293339:12657\_phsrc=TPO515&\_phstart=successSource&usePUBJs=true&indiv=1&\_phstart=TPO513%2cTPO514&gsfn=mark&gsln=ses...

ancestry Trees Search DNA Health Help Extras Upgrade

Back Save Print Share

## Mark Sessa

in the U.S., School Yearbooks, 1900-1999



Name: Mark Sessa

Estimated Age: 16

Birth Year: abt 1956

Yearbook Date: 1972

School: Western High School

School Location: Las Vegas, Nevada, USA

Save

View

Add or update information

Report a problem

Source Citation

40. The four records corresponding to Mark Sessa uniquely identify Mark Sessa. All plainly and conspicuously display Mark Sessa's name, image, photograph, estimated age, school, city of residence, and the date of the yearbook in which the photo appears. In two of the records Mark Sessa's face is the sole subject of the photograph. In all four records he is clearly identifiable by name and image. Various of the records identify Mark Sessa's school participation in his high school band and in a singing group called the "Blue Freedom Singers."

41. Ancestry has and continues to knowingly use Mark Sessa's name, photograph, and likeness for the commercial purpose of advertising, selling, and soliciting the purchase of its subscription services and products, including its "U.S. Discovery," "World Explorer," and "All Access" paid subscription plans, by using Mark Sessa's name, photograph, and likeness in the promotional limited-access version of its website. Any visitor to the Ancestry website may access the promotional limited-access version, even if they have not provided contact information or signed up for the promotional "free trial." Users of the promotional limited-access version of the

1 website may search for records in Ancestry's Yearbook and may view a limited portion of the  
2 information in those records, including the name, city of residence, and a low-resolution version  
3 of the photograph corresponding to each record. Users of the promotional limited-access version  
4 of the Ancestry website receive access to a limited version of same four records corresponding  
5 to Mark Sessa that are available to paying users.

6 42. Ancestry's sole purpose in using Mark Sessa's name, photograph, and likeness in  
7 the promotional limited-access version of its website is to advertise, sell, and solicit the purchase  
8 of paid subscription plans. Users who search for Mark Sessa's name are shown a limited version  
9 of the records corresponding to Mark Sessa, which includes Mark Sessa's name, city of residence,  
10 and a low-resolution version of Mark Sessa's photograph. Users who hover over the "View  
11 Record" link corresponding to each record receive a promotional pop-up advertisement from  
12 Ancestry displaying Mark Sessa's name, a low-resolution version of his photograph, and a  
13 message indicating "There's more to see" and promising the user access to Mark Sessa's  
14 estimated age, birth year, school, yearbook date, school location, and a full-resolution of Mark  
15 Sessa's photograph if they "Sign Up Now" for a paid subscription.

16 43. A screenshot showing the results of a search for Mark Sessa's name on the  
17 promotional limited-access version of the Ancestry website is shown below, followed by three  
18 screenshots depicting a representative sample of the promotional pop-up advertisement Ancestry  
19 delivers to users who hover over the "View Record" link corresponding to each record.  
20  
21  
22  
23  
24  
25  
26  
27  
28

//

Mark Sessa - U.S., School Yearb...

ancestry.com/search/collections/1265/?name=Mark\_Sessa&name\_x=1\_1&residence=\_nevada-usa\_31&residence\_x=\_1-0

ancestry Trees Search DNA Health Help Extras Subscribe Sign In >

## All U.S., School Yearbooks, 1900-1999 results for Mark Sessa

**Filters**

Broad ☐ Exact ☒

Mark

Sessa

Lived In: nevada...

Edit Search | New Search |

**Update**

Results 1-4 of 4

View Record	Name	Yearbook Date	School	School Location	View Image
<a href="#">View Record</a>	Mark Sessa	year	township	city, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	year	township	city, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	year	township	city, Nevada, USA	
<a href="#">View Record</a>	Mark Sessa	year	township	city, Nevada, USA	

1-4 of 4

Per page 20 ▾

▼ All Categories


- > Schools, Directories & Church Histories
- > School Lists & Yearbooks

U.S., School Yearbooks, 1900-1999

This database is a collection of

NAME: **Mark Sessa**

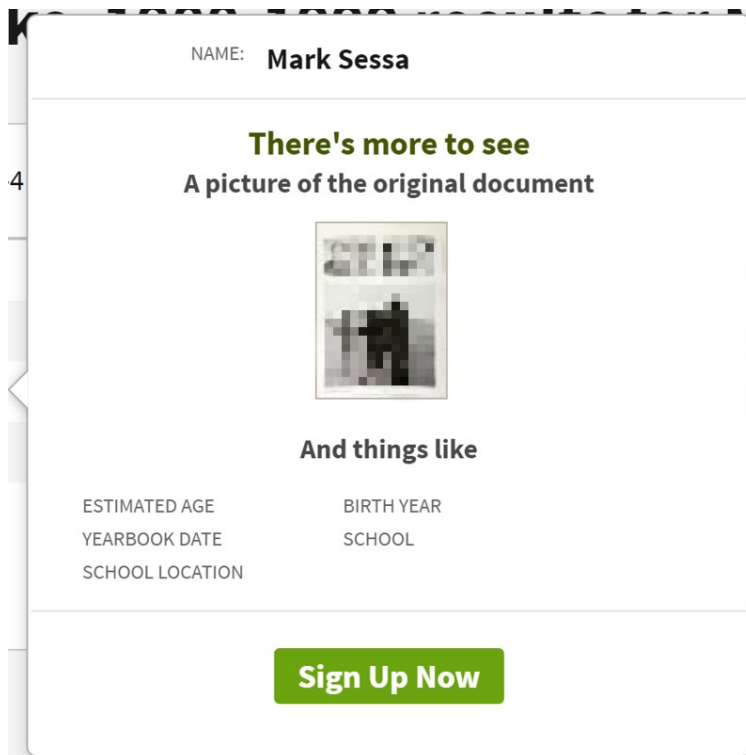
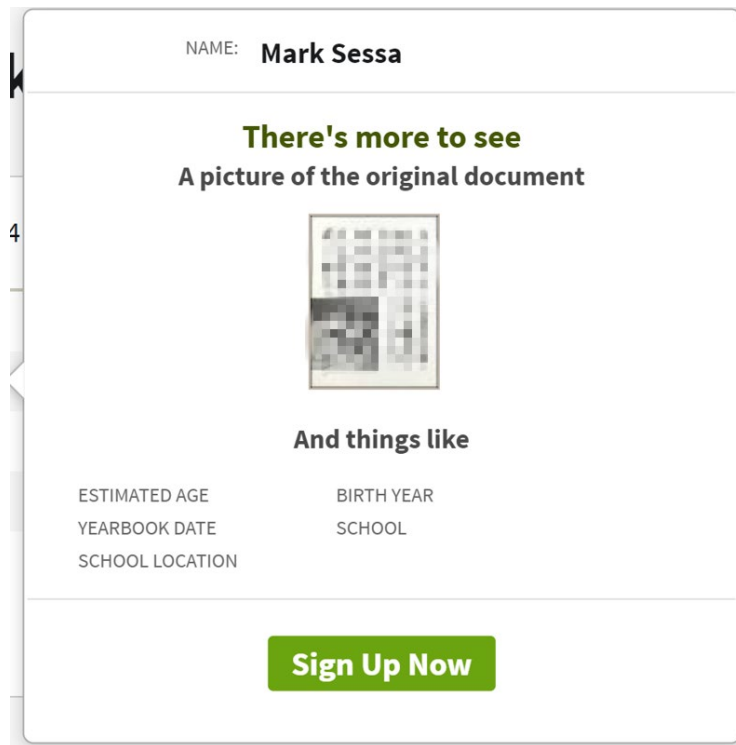
**There's more to see**  
A picture of the original document



**And things like**

ESTIMATED AGE	BIRTH YEAR
YEARBOOK DATE	SCHOOL
SCHOOL LOCATION	PHOTO DESCRIPTION

**Sign Up Now**



44. On information and belief, Ancestry has and continues to knowingly use Mark Sessa's name, photograph, and likeness for the commercial purpose of advertising, selling, and

1 soliciting the purchase of its subscription services and products, including its “U.S. Discovery,”  
2 “World Explorer,” and “All Access” paid subscription plans, by using Mark Sessa’s name,  
3 photograph, and likeness in targeted promotional email messages. Ancestry regularly sends  
4 promotional email messages that are intended to entice potential customers to purchase a paid  
5 subscription, and to entice existing customers to upgrade to more expensive plans. These email  
6 promotions often include the names, photographs, and likenesses of people Ancestry believes  
7 may be related to the recipient and encourage the recipient to sign up or upgrade their subscription  
8 plan to learn more about the relative. Upon information and belief, Ancestry has and continues  
9 to send targeted promotional email messages including Mark Sessa’s name, photograph, and  
10 likeness.

11 45. Through its actions, Ancestry has harmed and continues to harm Mark Sessa by  
12 depriving him the fair economic value of his likeness; violating his exclusive right to control his  
13 likeness; and violating his right to freedom from intrusion upon seclusion. Ancestry has earned  
14 ill-gotten profits and been unjustly enriched through its use of Mark Sessa’s name, photograph,  
15 and likeness.

#### 16 **STATEMENT OF COMMON FACTS**

17 46. Ancestry’s business model is based on gathering personal information from  
18 various sources, then selling access to that information for a monthly subscription fee. Ancestry  
19 uses the personal information it has amassed to advertise, sell, and solicit the purchase of its  
20 subscription products and services. Sources from which Ancestry.com collects personal  
21 information include school yearbooks, birth records, marriage records, death records, U.S. census  
22 records, immigration records, military records, and photographs of grave sites.

23 47. As part of this business model, Ancestry amassed and continues to grow its  
24 “Ancestry Yearbook Database”, which contains names, yearbook photos, estimated ages, schools  
25 attended, and additional personal information extracted from school yearbooks. Ancestry  
26 aggregates the extracted information into digital records associated with specific individuals. The  
27 Ancestry Yearbook Database comprises about 730 million individual records collected from  
28 “more than 450,000 yearbooks and more than 62 million pages.” Of those 730 million records,

1 about 1.7 million are marked in the database as corresponding to students in Nevada schools.

2 48. Each record in the Ancestry Yearbook Database includes at least the following  
3 information: the name of a specific individual; a photograph depicting that individual; the name  
4 of the school the individual attended; the year in which the yearbook was printed; and the city in  
5 which that individual lived. Some records contain additional personal information, including the  
6 individual's estimated age at the time of the photograph, estimated year of birth, and hobbies and  
7 interests while in school.

8 49. Ancestry did not and does not seek consent from, give notice to, or provide  
9 compensation to Plaintiffs and the class before placing their personal information in its Ancestry  
10 Yearbook Database, selling that information as part of its subscription products, and using that  
11 information to sell, advertise, and solicit the purchase of its subscription products.

12 50. Although Ancestry does not disclose how it created the Ancestry Yearbook  
13 Database, there is a section of Ancestry's website encouraging visitors to donate their old  
14 yearbooks to Ancestry. At least some, and possibly all, of the Yearbook Database was built via  
15 such donations.

16 51. With the exception of the implied consent of the donor herself (who may or may  
17 not personally appear in the donated yearbook), Ancestry makes no attempt to contact or gain  
18 the consent of any of the people whose names, photographs, likenesses, biographical information,  
19 and identities appear in a donated yearbook. Ancestry is apparently alert to the risks its business  
20 model runs under copyright law, but it does not even attempt to meet its obligations under the  
21 Nevada right to publicity. Ancestry asks the donor to sign a disclaimer that the donated yearbook  
22 is either "not bound by copyright restrictions" or "the copyright is held by the donor." But  
23 Ancestry does not require or even suggest the donor should ask the consent of the people who  
24 appear in the yearbook to have their names, photographs, and images added to the Ancestry  
25 Yearbook Database.  
26

27 52. Each record in the Ancestry Yearbook Database uniquely identifies an individual  
28 human being. Indeed, the fact these records uniquely identify specific individuals is the primary

1 selling point Ancestry uses to attract new subscribers. In its online promotional materials,  
2 Ancestry touts that subscribers will gain access to the records in its Ancestry Yearbook Database,  
3 each of which “Pinpoints an individual in a particular time and place” by joining information  
4 about the person including name, “school or town,” time, “a photo,” “interests and hobbies,” and  
5 “family linkages” because siblings may appear in the same yearbook.

6 53. Ancestry has and continues to knowingly use the names, photographs, and  
7 likenesses of Plaintiffs and the class in its products, including its “U.S. Discovery,” “World  
8 Explorer,” and “All Access” paid subscription plans. Subscribers who pay monthly subscriptions  
9 fees of between \$24.99 and \$49.99 per month, depending on the plan, receive in exchange the  
10 ability to search for, view, and download records in Ancestry’s Yearbook Database. Paying  
11 subscribers may view and download records containing the names, photographs, and likenesses  
12 of Plaintiffs and the class.

13 54. Ancestry has and continues to knowingly use the names, photographs, and  
14 likenesses of Plaintiffs and the class for the purpose of advertising, selling, and soliciting the  
15 purchase of its subscription services and products, including its “U.S. Discovery,” “World  
16 Explorer,” and “All Access” paid subscription plans, by using the names, photographs, and  
17 likenesses of Plaintiffs and the class in its 14-day promotional “free trial.” Users of the  
18 promotional “free trial” may search for, download, and view records in Ancestry’s Yearbook  
19 Database. “Free trial” users receive access to the same records that are available to paying users.  
20 Ancestry’s sole purpose in using the names, photographs, and likenesses of Plaintiffs and the  
21 class in the promotional “free trial” version of its website is to advertise, sell, and solicit the  
22 purchase of paid subscription plans.

23 55. Ancestry has and continues to knowingly use the names, photographs, and  
24 likenesses of Plaintiffs and the class for the purpose of advertising, selling, and soliciting the  
25 purchase of its subscription services and products, including its “U.S. Discovery,” “World  
26 Explorer,” and “All Access” paid subscription plans, by using the names, photographs, and  
27 likenesses of Plaintiffs and the class in the promotional limited-access version of its website. Any  
28



1 visitor to the Ancestry website may access the promotional limited-access version, even if they  
2 have not provided contact information or signed up for the promotional “free trial.” Users of the  
3 promotional limited-access version of the website may search for records in Ancestry’s Yearbook  
4 and may view a limited portion of the information in those records, including the name, city of  
5 residence, and a low-resolution version of the photograph corresponding to each record. Users  
6 of the promotional limited-access version of the Ancestry website receive access to a limited  
7 version of same records that are available to paying users.

8         56. Ancestry’s sole purpose in using the names, photographs, and likenesses of  
9 Plaintiffs and the class in the promotional limited-access version of its website is to advertise,  
10 sell, and solicit the purchase of paid subscription plans. Users may access limited versions of the  
11 records Ancestry has amassed corresponding to Plaintiffs and the class. The limited-version  
12 records include a name, city of residence, and a low-resolution version of a photograph portraying  
13 the class member. Users who hover over the “View Record” link corresponding to each record  
14 receive a promotional pop-up advertisement from Ancestry displaying the class member’s name,  
15 a low-resolution version of the photograph, and a message indicating “There’s more to see” and  
16 promising the user access to the class member’s estimated age, birth year, school, yearbook date,  
17 school location, and a full-resolution of the class member’s photograph if they “Sign Up Now”  
18 for a paid subscription.  
19

20         57. The vast majority of people whose personal information Ancestry has amassed in  
21 its Ancestry Yearbook Database have no business relationship with Ancestry, are not Ancestry  
22 subscribers, and are not subject to a Terms of Service or any other agreement with Ancestry.

23         58. Through its actions, Ancestry has harmed and continues to harm Plaintiffs and the  
24 class by depriving them the fair economic value of their likenesses; violating their exclusive  
25 rights to control their likenesses; and violating their rights to freedom from intrusion upon  
26 seclusion. Ancestry has earned ill-gotten profits and been unjustly enriched through its use of the  
27 names, photographs, and likenesses of Plaintiffs and the class.

28         59. Ancestry’s knowing misappropriation of names, likenesses, photographs, and

1 other personal information, and commercial use of those names, likenesses, photographs, and  
 2 other personal information in selling and advertising its products and services, violate Nevada's  
 3 statute protecting the right to publicity, Nev. Rev. Stat. §§ 597.770 *et seq.*; Nevada's statutory  
 4 prohibition against deceptive trade practices, Nev. Rev. Stat. 598.090. *et seq.*; Nevada common  
 5 law protection against intrusion upon seclusion; and Nevada common law protecting against  
 6 unjust enrichment.

### 7 **CLASS ALLEGATIONS**

8 60. Plaintiffs bring this complaint on behalf of themselves and a class of all Nevada  
 9 residents who (a) are not currently subscribers of Ancestry.com, (b) have never donated a  
 10 yearbook to Ancestry, and (c) whose names, photographs, and/or likenesses were extracted from  
 11 yearbooks by Ancestry and placed on the Ancestry website as part of its Yearbook Database,  
 12 without Ancestry obtaining their consent. Excluded from the class are (a) Plaintiffs' counsel; (b)  
 13 Ancestry, its officers and directors, counsel, successors and assigns; (c) any entity in which  
 14 Ancestry has a controlling interest; and (d) the judge to whom this case is assigned and the  
 15 judge's immediate family.

16 61. The members of the proposed class are so numerous that joinder of individual  
 17 claims is impracticable. As of September 2020, Ancestry represents that its Ancestry Yearbook  
 18 Database contains 730 million records. Of those, 1.7 million records correspond to schools in  
 19 Nevada. Even accounting for the fact that some individuals have multiple records present in the  
 20 database, that some are deceased or no longer reside in Nevada, and that the class excludes  
 21 current Ancestry subscribers (Ancestry represents it has 3 million subscribers worldwide), the  
 22 class numbers in the millions.

23 62. There are significant questions of fact and law common to the members of the  
 24 class. These issues include:

- 25 a. Whether Ancestry's collection of personal information about Plaintiffs and the
- 26 class members, including names, yearbook photographs, yearbook years,
- 27 estimated ages, cities of residence, schools attended, and interest and hobbies, in
- 28

1 its Ancestry Yearbook Database, and selling of that information via paid  
2 subscription plans, constitute the commercial use without written consent of  
3 another's name, photograph, or likeness within the meaning of Nev. Rev. Stat. §§  
4 597.770 *et seq.*;

5 b. Whether Ancestry's use of personal information about Plaintiffs and the class  
6 members, including names, yearbook photographs, yearbook years, estimated  
7 ages, cities of residence, schools attended, and interests and hobbies, by offering  
8 access to that information as part of its promotional 14-day "free trial," constitutes  
9 the commercial use without written consent of another's name, photograph, or  
10 likeness for purposes of advertising, selling, or soliciting purchases of Ancestry  
11 products, merchandise, goods, or services, within the meaning of Nev. Rev. Stat.  
12 §§ 597.770 *et seq.*;

13 c. Whether Ancestry's use of personal information about Plaintiffs and the class  
14 members, including names, yearbook photographs, and cities of residence, by  
15 offering access to that information as part of the promotional limited-access  
16 version of its website constitutes the commercial use of another's name,  
17 photograph, or likeness for purposes of advertising, selling, or soliciting purchases  
18 of Ancestry products, merchandise, goods, or services, within the meaning of Nev.  
19 Rev. Stat. §§ 597.770 *et seq.*;

20 d. Whether Ancestry's use of personal information about Plaintiffs and the class  
21 members, including names and yearbook photographs, by including that  
22 information in targeted promotional email messages constitutes the commercial  
23 use of another's name, photograph, or likeness for purposes of advertising, selling,  
24 or soliciting purchases of Ancestry products, merchandise, goods, or services,  
25 within the meaning of Nev. Rev. Stat. §§ 597.770 *et seq.*;

26 e. Whether Plaintiffs and the class consented to the use of their names, photographs,  
27 and likenesses in Ancestry products and advertisements;  
28

- 1 f. Whether Ancestry's use of personal information about Plaintiffs and the class  
2 without consent was "knowing" within the meaning of Nev. Rev. Stat. §§ 597.810,  
3 such that Plaintiffs and the class are entitled to exemplary or punitive damages;
- 4 g. Whether Ancestry's use of names, photographs, and likeness constitutes a use not  
5 directly connected with commercial sponsorship, or a use in connection with news  
6 or public affairs, for which written consent is not required, within the meaning of  
7 Nev. Rev. Stat. §§ 597.790;
- 8 h. Whether Ancestry's conduct as described in this complaint violated Nevada's  
9 Deceptive Trade Practices law, Nev. Rev. Stat. §§ 598.0903 *et seq.*;
- 10 i. Whether Ancestry was unjustly enriched as a result of the conduct described in  
11 this complaint; and
- 12 j. Whether class members are entitled to injunctive, declaratory and monetary relief  
13 as a result of Ancestry's conduct as described in this complaint.

14 63. Plaintiffs' claims are typical of those of the proposed class. Plaintiffs and all  
15 members of the proposed class have been harmed by Ancestry's misappropriation and misuse of  
16 their names, likenesses, photographs, and other personal information.

17 64. The proposed class representatives will fairly and adequately represent the  
18 proposed class. The class representatives' claims are co-extensive with those of the rest of the  
19 class, and they are represented by qualified counsel experienced in class action litigation of this  
20 nature.

21 65. A class action is superior to other available methods for the fair and efficient  
22 adjudication of these claims because individual joinder of the claims of all members of the  
23 proposed class is impracticable. Many members of the class do not have the financial resources  
24 necessary to pursue this claim, and even if they did, the size of their interest in the case may not  
25 be large enough to merit the cost of pursuing the case. Individual litigation of these claims would  
26 be unduly burdensome on the courts in which individualized cases would proceed. Individual  
27 litigation would greatly increase the time and expense needed to resolve a dispute concerning  
28

1 Ancestry's common actions towards an entire group. Class action procedures allow for the  
 2 benefits of unitary adjudication, economy of scale, and comprehensive supervision of the  
 3 controversy by a single court.

4 66. The proposed class action may be certified pursuant to Rule 23(b)(2) of the  
 5 Federal Rules of Civil Procedure. Ancestry has acted on ground generally applicable to the  
 6 proposed class, such that final injunctive and declaratory relief is appropriate with respect to the  
 7 class as a whole.

8 67. The proposed class action may be certified pursuant to Rule 23(b)(3). Questions  
 9 of law and fact common to class members predominate over questions affecting individual  
 10 members, and a class action is superior to other available methods for fairly and efficiency  
 11 adjudicating the controversy.

12 **FIRST CAUSE OF ACTION**  
 13 **(Nev. Rev. Stat. §§ 597.770 *et seq.*)**

14 68. Plaintiffs incorporate by reference the allegations contained in all preceding  
 15 paragraphs of this complaint.

16 69. Ancestry conducts business in Nevada by, among other things, appropriating the  
 17 likenesses of Nevada residents and using those likenesses to advertise and as part of its products  
 18 and service, and by offering its subscription products for sale to Nevada residents.

19 70. Nevada's statute protecting the right to publicity, Nevada Revised Statutes §§  
 20 597.770 *et seq.*, prohibits and provides damages for the commercial use of another's name, voice,  
 21 signature, photograph, or likeness without written consent.

22 71. By engaging in the forgoing acts and omissions, Ancestry used class members'  
 23 names, photographs, and likenesses for commercial purposes in its goods, products, and services  
 24 without written consent.

25 72. Each use of a class member's name, photograph, or likeness is a separate and  
 26 distinct violation of Nev. Rev. Stat. §§ 597.770 *et seq.* giving rise to damages.

27 73. By appropriating their likenesses and using those likenesses for a commercial  
 28 purpose without consent, Ancestry deprived Plaintiffs and the class the economic value of their

1 likenesses and of their legally protected rights to control the disposition of their likenesses.  
 2 Plaintiffs and the class suffered actual damages equal to the fair commercial value of their  
 3 likenesses, which can be measured as the reasonable market price for the use of a likeness in a  
 4 product or advertisement, or as the amount of Ancestry's profits derived from subscriptions sold  
 5 using their likenesses. Regardless of whether a precise measure of damages can be established at  
 6 trial, Plaintiffs and the class are entitled to statutory minimum damages in the amount of \$750  
 7 per violation as provided for in Nev. Rev. Stat. §§ 597.770 *et seq.*

8 74. Plaintiffs seek declaratory, injunctive, and monetary damages for themselves and  
 9 on behalf of each member of the proposed class as provided for Nev. Rev. Stat. §§ 597.770 *et*  
 10 *seq.*, including statutory damages equal to the greater of \$750 per violation or actual damages,  
 11 punitive and/or exemplary damages in light of Defendants' knowing commercial use without  
 12 consent, and the award of attorneys' fees and costs in the event Plaintiffs prevail in this action.

13  
 14 **SECOND CAUSE OF ACTION**  
**(Nev. Rev. Stat. §§ 598.0903 *et seq.*)**

15 75. Plaintiffs incorporate by reference the allegations contained in all preceding  
 16 paragraphs of this complaint.

17 76. Ancestry has and is engaged in deceptive trade practices, as that term is defined  
 18 in the Nevada Deceptive Trade Practices statute, Nev. Rev. Stat. §§ 598.09093 *et seq.*

19 77. As described in this complaint, Ancestry's knowing misappropriation and  
 20 commercial use without consent of Plaintiffs' and class members' names, photographs,  
 21 likenesses, and personal information, constitutes a knowing false representation as to the source,  
 22 sponsorship, approval, or certification of its goods and services within the meaning of Nev. Rev.  
 23 Stat. §§ 598.09093 *et seq.*

24 78. As described in this complaint, Ancestry's knowing misappropriation and  
 25 commercial use without consent of Plaintiffs' and class members' names, photographs,  
 26 likenesses, and personal information, constitutes a knowing false representation as to affiliation,  
 27 connection, association, or certification by another person within the meaning of Nev. Rev. Stat.  
 28

1 §§ 598.09093 *et seq.*

2 79. As described in this complaint, Ancestry's misappropriation and commercial use  
3 without consent of the names, photographs, likenesses, and personal information of the deceased  
4 relatives of Plaintiffs and members of the class is a violation of Nevada's statute protecting the  
5 right of publicity, Nev. Rev. Stat. 597.770 *et seq.* By engaging in the conduct described in this  
6 complaint and violating Nevada law, Ancestry violated a state statute relating to the sale of its  
7 goods and services withing the meaning of Nev. Rev. Stat. § 598.0923.

8 80. By engaging in the conduct described in this complaint, including profiting from  
9 the sale and use in advertising of personal information it misappropriated without consent,  
10 Ancestry engaged in and continues to engage in deceptive trade practices prohibited by Nevada  
11 law.

12 81. As a result of Ancestry's actions, Plaintiffs and the class have been injured.  
13 Plaintiffs and members of the class each lost the economic value of their likenesses and their  
14 legally protected rights to control the disposition of their likenesses. Plaintiffs and members of  
15 the class also lost the right to refuse consent and protect their own privacy, as guaranteed by  
16 Nevada law. Plaintiffs and the class suffered actual damages equal to the fair commercial value  
17 of their likenesses, which can be measured as the reasonable market price for the use of a likeness  
18 in a product or advertisement, or as the amount of Ancestry's profits derived from subscriptions  
19 sold using their likenesses.  
20

21 **THIRD CAUSE OF ACTION**  
22 **(Intrusion Upon Seclusion)**

23 82. Plaintiffs incorporate by reference the allegations contained in all preceding  
24 paragraphs of this complaint.

25 83. Plaintiffs and class members have a reasonable expectation of privacy in their  
26 personal information, including their photographs and biographical details.

27 84. Ancestry intentionally intruded on the seclusion of Plaintiffs and the class by  
28 appropriating their names, likeness, photographs, and biographical information, and the names  
likenesses, photographs, and biographical information of their deceased relatives, and using the

appropriated information to advertise and sell online services.

85. Ancestry's misuse of personal information reveals private facts in which a reasonable person would expect privacy. It maintains, sells, and advertises using records that reveal intimate details about subjects' private lives, including ages, locations, biographical details, and photographs.

86. Plaintiffs and members of the class were harmed by Ancestry's intrusion into their private affairs as detailed in the complaint.

87. Among other remedies, Plaintiffs and members of the class seek damages, including punitive damages in light of Ancestry's conscious disregard of Plaintiffs' and class members privacy rights and exploitation of their personal information for profit.

#### **FOURTH CAUSE OF ACTION (Unjust Enrichment)**

88. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

89. Plaintiffs and members of the class have conferred an unwarranted benefit on Ancestry. Ancestry's business model centers around selling subscriptions for access to personal information that rightfully belongs to Plaintiffs and members of the class. Ancestry uses the personal information it misappropriated to sell its services without consent. Each subscription sold and each advertisement sent represents an unwarranted benefit conferred by the class.

90. Under principles of equity and good conscience, Ancestry should not be permitted to retain the benefits it gained as a result of its actions.

91. Plaintiffs and members of the class have suffered loss as a direct result of Ancestry's conduct.

92. Among other remedies, Plaintiffs, on their own behalf and on behalf of absent class members, seek the imposition of a constructive trust and restitution of proceeds Ancestry received as a result of the conduct described in this complaint, as well as an award of attorneys' fees, costs, and interest.



**PRAYER FOR RELIEF**

93. WHEREFORE Plaintiffs, on behalf of themselves and all others similarly situation, hereby demands judgment against Defendant Ancestry as follows:

- (a) For an order certifying the proposed class and appointing Plaintiffs and their counsel to represent the class;
- (b) For a declaration that Ancestry's acts and omissions constitute a knowing misappropriation of names, likeness, photographs, and other personal information, and infringe on protected privacy rights, in violation of Nevada law;
- (c) For preliminary and permanent injunctive relief enjoining and preventing Ancestry from continuing to operate its Ancestry website and expand its databases without appropriate safeguards to ensure people's personal information is not used illegally without their consent;
- (d) For an order enjoining Ancestry from continuing the unlawful and unfair conduct described in this complaint;
- (e) For restitution for Plaintiffs and members the class for the value that Defendants derived from misappropriating their likenesses;
- (f) For an award of damages, including without limitation damages for actual harm, profits earned by Ancestry in the operation of its websites selling access to misappropriated personal information, and statutory damages;
- (g) For an award of reasonable attorneys' fees and costs incurred by Plaintiffs and the class members; and
- (h) For an award of other relief in law and equity to which Plaintiffs and the class members may be entitled.

//

**JURY TRIAL DEMAND**

Plaintiffs hereby demand a jury trial for all individual and Class claims so triable.

Respectfully submitted,

DATED: December 17, 2020.

**KNEPPER & CLARK LLC**

*/s/ Miles N. Clark*

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